

Exhibit 3

CONTAINS CONFIDENTIAL AND ATTORNEYS' EYES ONLY PORTIONS

Page 1

1

2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4

5 AUSTIN FENNER and IKIMULISA)
6 LIVINGSTON,)
7 Plaintiffs,)
8 vs.) 09CIV9832
9) (BSJ(RLE)

10 NEWS CORPORATION, NYP HOLDINGS,)
11 INC., d/b/a THE NEW YORK POST,)
12 and DAN GREENFIELD and MICHELLE)
13 GOTTHELF,)
14)
15 Defendants.)
16 -----)

17

18 (CONTAINS CONFIDENTIAL and
19 ATTORNEYS' EYES ONLY PORTIONS)

20

21 VIDEOTAPED DEPOSITION OF DAN GREENFIELD
22 New York, New York
23 Thursday, April 5, 2012

24

25 Reported by:
26 Philip Rizzuti
27 JOB NO. 47782

CONTAINS CONFIDENTIAL AND ATTORNEYS' EYES ONLY PORTIONS

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<p>1 Greenfield 2 question is as of today is it fair to say that 3 all the editors who worked on the metro desk 4 and these three reporters who occasionally 5 work on the metro desk are white?</p>	<p>1 Greenfield 2 the New York Post have ever been promoted to 3 an editor position on the metro desk during 4 your tenure?</p>
<p>6 A. I preface it again by saying --</p>	<p>5 A. Yes.</p>
<p>7 Q. Just answer the question, you 8 don't have too preface it?</p>	<p>6 Q. Can you identify those 7 individuals?</p>
<p>9 A. I will answer it. I never regard 10 people --</p>	<p>8 A. Tom Liddy, Tom Namako and Eric 9 Lenkowitz.</p>
<p>11 Q. Mr. Greenfield, I move to strike. 12 Please just answer the question, I don't want 13 to have to call the judge. You don't have to 14 keep prefacing it, just answer the question 15 that I am asking you. Can you please read 16 back the question.</p>	<p>10 Q. Can you recall anyone else?</p>
<p>17 (Record read.)</p>	<p>11 A. I mentioned before Todd Venezia 12 working as a sometime editor. I don't think 13 that would qualify as a promotion though.</p>
<p>18 A. I don't see people that way, but 19 yes.</p>	<p>14 Q. Is Tom Liddy Caucasian?</p>
<p>20 Q. Do you know Mr. Greenfield if any 21 reporters at the New York Post have ever been 22 promoted to an editor's position on the metro 23 desk during your tenure?</p>	<p>15 A. Yes.</p>
<p>24 A. I am sorry.</p>	<p>16 Q. So is it true, Mr. Greenfield, 17 that the only reporters that you know of that 18 have been promoted to an editor position on 19 the metro desk are Caucasian?</p>
<p>25 Q. Do you know if any reporters at</p>	<p>20 A. I can't think of anybody else. I 21 think it is those three. I am not sure if 22 that is an exclusive list, but yes, of those 23 people that I mentioned they are all 24 Caucasian.</p>
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<p>1 Greenfield 2 metro department at the New York Post?</p>	<p>1 Greenfield 2 am asking about African-American?</p>
<p>3 A. I don't actually have a head 4 count, but we are probably talking 50 to 60, 5 including part-timers -- well there are also 6 part-timers, but again a total number I can't 7 think of off the top of my head. But in that 8 ballpark.</p>	<p>3 A. Okay. Sabrina Ford. 4 Q. Anyone else?</p>
<p>9 Q. How many black full-time reporters 10 work in the metro department?</p>	<p>5 A. There may be others, Mr. Thompson, 6 I am trying to remember.</p>
<p>11 A. Again not seeing people in those 12 terms, the whole department, I think it might 13 be three or four.</p>	<p>7 Q. Take your time. 8 A. This is currently?</p>
<p>14 Q. Identify the three or four black 15 full-time reporters that work in the metro 16 department?</p>	<p>9 Q. Yes. 10 A. Off the top of my head those are 11 the names that I can think of.</p>
<p>17 A. The ones that I was just thinking 18 of, Kim Livingston. Actually no, it is more 19 now that I think of it. It is Kim Livingston, 20 Leonard Green, Christina Carrega, Georgette 21 Roberts. There might be others, I am trying 22 to think. Just trying to go through all the 23 staff in my mind. I am not sure how Doug 24 Montero identifies himself, he is Hispanic.</p>	<p>12 Q. Do you know why there are only 13 five black full-time reporters out of 50 or 60 14 reporters who work in the metro department?</p>
<p>25 Q. I am not asking about Hispanic, I</p>	<p>15 MR. LERNER: Objection. 16 A. I don't.</p>
<p>1 A. When Mr. Fenner worked as a 2 reporter for the New York Post between 2007 3 and 2009 how many black full-time reporters 4 worked in the metro department?</p>	<p>17 Q. When Mr. Fenner worked as a 18 reporter for the New York Post between 2007 19 and 2009 how many black full-time reporters 20 worked in the metro department?</p>
<p>2 A. Again I think of Austin as a 3 reporter who happened to be African-American, 4 but I am trying to remember names. Neil 5 Graves was here at the time. Leonard Green 6 was here at the time that Austin was here.</p>	

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1	Greenfield	1 Greenfield
2	Q. Would you consider Kevin Fasick to	2 worked at The Post longer than Ms. Livingston?
3	be a runner?	3 A. He has not.
4	A. Field reporter, runner, yes.	4 Q. What about Rebecca Rosenberg, has
5	Q. Would you consider Reuven Fenton	5 she worked at the newspaper longer than
6	to be a runner?	6 Ms. Livingston?
7	A. Field reporter, yes, sure, runner.	7 A. As full-time?
8	Q. What about Rebecca Rosenberg?	8 Q. Yes.
9	A. Same.	9 A. Shes has not.
10	Q. Amber Sutherland?	10 Q. Has Amber Sutherland worked at the
11	A. Yes.	11 newspaper longer than Ms. Livingston?
12	Q. Frank Rosario?	12 A. She has not.
13	A. Yes.	13 Q. Has Frank Rosario worked longer at
14	Q. Celim Algar?	14 the newspaper than Ms. Livingston?
15	A. Yes. Celim and Kieran are	15 A. He has not.
16	runners, but they are based out on Long	16 Q. How about Celim Algar?
17	Island, so their jobs are similar, but they	17 A. I don't know.
18	don't necessarily come into the city like	18 Q. How about Kieran Crowley?
19	everybody else. As I said there might be	19 A. I don't know.
20	others, I am trying to remember.	20 (Continued in confidential,
21	Q. Do you know if Kevin Fasick has	21 attorneys eyes' only portion of
22	worked at the New York Post longer than	22 transcript.)
23	Ms. Livingston?	23
24	A. He has not.	24
25	Q. Do you know if Rueven Fenton has	25
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1	Greenfield - confidential - attorneys eyes' only	1 Greenfield - confidential - attorneys eyes' only
2	Q. Do you know how much	2 make less depending on the hours that they
3	Ms. Livingston is currently paid annually as a	3 work.
4	reporter at the New York Post?	4 Q. I am talking about the annual
5	A. In -- not the exact number, but I	5 salary exclusive of overtime?
6	think in broad strokes.	6 A. I wanted to be specific.
7	Q. Can you tell us what your	7 Q. Let me make it clear.
8	understanding is in terms of how much she	8 Does Ms. Livingston make more
9	makes annually?	9 money in an annual salary than Kevin Fasick?
10	A. I think she makes around \$70,000,	10 A. I believe she does, yes.
11	plus overtime.	11 Q. How much does Kevin Fasick make
12	Q. Does Ms. Livingston make more	12 annually?
13	money annually than Kevin Fasick?	13 A. Again broad terms, I don't assign
14	A. I don't know.	14 salaries, I am not a hundred percent sure, but
15	Q. Does she make more money annually	15 I could give you a range.
16	than Reuven Fenton?	16 MR. LERNER: Don't guess. If you
17	A. I don't know.	17 know the answer, tell him. If you don't
18	Q. Does she make more money annually	18 know the answer, tell Mr. Thompson you
19	than Rebecca Rosenberg?	19 don't know the answer.
20	A. Okay, let me clarify that. Are we	20 A. I couldn't say specifically.
21	talking salary or total income, because all of	21 Q. Does Ms. Livingston make more in
22	these people -- if I may. All of these people	22 terms of an annual salary than Reuven Fenton?
23	are eligible for overtime, and all of them	23 A. I couldn't say.
24	may, because I am not privy to their pay on a	24 Q. Does she make more with respect to
25	weekly or annual basis, may make more, may	25 her annual salary than Rebecca Rosenberg?

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<p>1 Greenfield</p> <p>2 MR. LERNER: Objection.</p> <p>3 A. Could you ask the question again?</p> <p>4 Q. Strike that.</p> <p>5 Do you have any experience --</p> <p>6 strike that.</p> <p>7 Do you know if Michelle Gotthelf</p> <p>8 based on your working with her would ever put</p> <p>9 any false statement in an employee's</p> <p>10 performance evaluation?</p> <p>11 A. No.</p> <p>12 Q. Now I want to show you what is</p> <p>13 marked as Deposition Exhibit 4, Bates stamped</p> <p>14 IL 176. Please take a moment and look at that</p> <p>15 exhibit, Mr. Greenfield, and tell us if you</p> <p>16 recognize it?</p> <p>17 A. I am sorry, what was the question?</p> <p>18 Q. You have had a chance to review</p> <p>19 this exhibit?</p> <p>20 A. Yes.</p> <p>21 Q. You see it is an E-mail from Zach</p> <p>22 Haberman dated February 20, 2008, at 10 p.m.</p> <p>23 to Ms. Livingston; correct?</p> <p>24 A. Yes, I do.</p> <p>25 Q. Can you read the text of what he</p>	<p>1 Greenfield</p> <p>2 wrote to her that day?</p> <p>3 A. Once again hell of a story,</p> <p>4 exactly the kind of eyes open head up thing we</p> <p>5 need throughout this trial. Zach.</p> <p>6 Q. Now, Mr. Greenfield, would you</p> <p>7 agree that Zach Haberman was referring to the</p> <p>8 Sean Bell trial when he sent that E-mail to</p> <p>9 Ms. Livingston?</p> <p>10 A. I don't know, it doesn't say.</p> <p>11 Q. But as you sit now do you know of</p> <p>12 any other trial that Ms. Livingston was</p> <p>13 covering for the New York Post in February of</p> <p>14 2008?</p> <p>15 A. I don't know one way or the other.</p> <p>16 Q. Well you would agree that Mr.</p> <p>17 Haberman is telling Ms. Livingston that she</p> <p>18 had a heck of a story?</p> <p>19 A. On that day.</p> <p>20 Q. Would he agree that he was</p> <p>21 praising her work on that day?</p> <p>22 A. On that day it looks like he was</p> <p>23 praising for her something, I don't know</p> <p>24 specifically.</p> <p>25 Q. Right, but he says hell of a</p>
Page 208	Page 209
<p>1 Greenfield</p> <p>2 story; correct?</p> <p>3 A. That is what it says here.</p> <p>4 Q. So he was praising her in</p> <p>5 connection with the story; correct?</p> <p>6 A. In connection with it.</p> <p>7 Q. And he also says: Exactly the</p> <p>8 kind of eyes open, heads up thing we need</p> <p>9 throughout this trial; right?</p> <p>10 A. I see that here. Very well could</p> <p>11 have been following up what had not been, that</p> <p>12 he had been critical. Saying this is the kind</p> <p>13 of thing that we do need, I don't know.</p> <p>14 Q. You are guessing right now, aren't</p> <p>15 you; are you guessing?</p> <p>16 A. Well you are asking me to guess on</p> <p>17 the whole thing --</p> <p>18 MR. LERNER: Let him finish.</p> <p>19 A. I have not seen this before. I</p> <p>20 didn't write this. I don't even know for sure</p> <p>21 that this is about the Sean Bell trial.</p> <p>22 Q. I understand. Let me make it</p> <p>23 clear. I don't want you to guess. If you</p> <p>24 don't an answer to the question just say you</p> <p>25 don't know. No one in this room wants you to</p>	<p>1 Greenfield</p> <p>2 guess, do you understand that Mr. Greenfield?</p> <p>3 A. Then it is very hard for me to</p> <p>4 speak to the E-mail.</p> <p>5 Q. Well you can read the E-mail;</p> <p>6 correct?</p> <p>7 A. Yes.</p> <p>8 Q. You understand what hell of a</p> <p>9 story means; right?</p> <p>10 A. Yes, I do.</p> <p>11 Q. That means a good story; correct?</p> <p>12 A. It means the story was good, yes.</p> <p>13 Q. You don't have to guess about</p> <p>14 that, do you?</p> <p>15 A. Well --</p> <p>16 Q. I want to show you now what was</p> <p>17 marked as --</p> <p>18 A. I wasn't done speaking.</p> <p>19 Q. Okay, continue to speak?</p> <p>20 A. The hell of a story, it says that,</p> <p>21 but it doesn't say specific what her</p> <p>22 contribution to whatever story this was. He</p> <p>23 is speaking about the story. I don't know</p> <p>24 what it is that he is speaking to her about.</p> <p>25 Q. Okay.</p>

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<p style="text-align: right;">Page 218</p> <p>1 Greenfield</p> <p>2 A. I don't recall the specifics of a</p> <p>3 conversation on that front.</p> <p>4 Q. I am not asking you for the</p> <p>5 specifics. Do you recall anything that Ms.</p> <p>6 Gotthelf said to you when she spoke to you</p> <p>7 about whether Ms. Livingston should be</p> <p>8 reassigned from that courthouse?</p> <p>9 A. I remember the discussions were</p> <p>10 again surrounding, you know, about the fact</p> <p>11 that she needed rewrite. The fact that she</p> <p>12 was not breaking enough stories. She was not</p> <p>13 providing enough enterprise overall during her</p> <p>14 time at the court. Those were issues that</p> <p>15 were raised.</p> <p>16 Q. Who made the decision to reassign</p> <p>17 Ms. Livingston from the Queens courthouse?</p> <p>18 A. Michelle Gotthelf.</p> <p>19 Q. How do you know that?</p> <p>20 A. She told me. I believe she</p> <p>21 also -- pretty certain that she also ran it by</p> <p>22 Jesse Angelo at least.</p> <p>23 Q. How do you know that she ran her</p> <p>24 decision by Jesse Angelo?</p> <p>25 A. I seem to recall that, I don't</p>	<p style="text-align: right;">Page 219</p> <p>1 Greenfield</p> <p>2 have -- I seem to remember that.</p> <p>3 Q. Tell us what basis do you have to</p> <p>4 say that she ran her decision by Jesse Angelo?</p> <p>5 A. I seem to remember her saying</p> <p>6 that.</p> <p>7 Q. What did she say to you about</p> <p>8 that?</p> <p>9 A. I don't remember.</p> <p>10 Q. Well in substance do you recall a</p> <p>11 single thing she said to you about talking to</p> <p>12 Jesse Angelo about her decision to reassign</p> <p>13 Ms. Livingston?</p> <p>14 A. No.</p> <p>15 Q. Did you ever speak to Jesse Angelo</p> <p>16 about the decision to reassign Ms. Livingston</p> <p>17 from the Queens courthouse?</p> <p>18 A. I did not.</p> <p>19 Q. Did you ever speak to any editor</p> <p>20 apart from Michelle Gotthelf about the</p> <p>21 decision to reassign Ms. Livingston from the</p> <p>22 Queens courthouse?</p> <p>23 A. Do you mean after or before --</p> <p>24 Q. Before?</p> <p>25 A. I mean as I mentioned before I was</p>
<p style="text-align: right;">Page 220</p> <p>1 Greenfield</p> <p>2 aware of, you know, I was aware of Zach's</p> <p>3 displeasure. I was aware of the issues that</p> <p>4 Clemente, he was a writer, he was not really</p> <p>5 an editor, he is not an editor, of those</p> <p>6 issues. But I don't -- I didn't have any kind</p> <p>7 of conversations. I really was on the -- I</p> <p>8 really wasn't very involved with this.</p> <p>9 Q. Was Zach Haberman yelling at --</p> <p>10 strike that -- did he ever yell at Michelle</p> <p>11 Gotthelf as far as you know?</p> <p>12 A. I think I testified earlier that</p> <p>13 he did indeed -- at the end of -- this was</p> <p>14 still, still early in Zach's tenure when this</p> <p>15 all happened. The issues with Michelle were</p> <p>16 toward the end, about a year later, I guess</p> <p>17 about the time that we are talking about now.</p> <p>18 But later, yes, I do remember them raising</p> <p>19 their voices towards each other.</p> <p>20 Q. When was Zach Haberman fired?</p> <p>21 A. I believe it was September of</p> <p>22 2009.</p> <p>23 Q. When was Ms. Livingston reassigned</p> <p>24 from the Queens courthouse position?</p> <p>25 A. Either fall of 2008, November</p>	<p style="text-align: right;">Page 221</p> <p>1 Greenfield</p> <p>2 maybe, October. I don't remember the</p> <p>3 specifics.</p> <p>4 Q. So she was still reporting</p> <p>5 directly to Zach Haberman when she was removed</p> <p>6 from that position; correct?</p> <p>7 A. He was still the court's editor</p> <p>8 for that court, yes.</p> <p>9 Q. Do you know if he played any role</p> <p>10 in the decision to reassign Ms. Livingston?</p> <p>11 A. I don't know. I don't know.</p> <p>12 Q. Did Ms. Livingston ever tell you</p> <p>13 directly that Mr. Haberman had screamed or</p> <p>14 raised his voice at her?</p> <p>15 A. She never said anything like that</p> <p>16 at all to me.</p> <p>17 Q. Did she ever say that he had</p> <p>18 cursed at her?</p> <p>19 A. She never said anything like that</p> <p>20 to me.</p> <p>21 Q. Did anybody ever tell you that Ms.</p> <p>22 Livingston complained about Zach Haberman</p> <p>23 raising his voice to her before he was</p> <p>24 terminated?</p> <p>25 A. No.</p>

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1 Greenfield	1 Greenfield
2 Q. I am not asking you to guess?	2 MR. LERNER: Objection.
3 A. Okay, I don't remember what she	3 A. You know, I -- I did not supervise
4 said about -- I don't remember.	4 Billy Gorta -- he was on the desk with me, I
5 Q. Can you recall a single thing that	5 didn't supervise him. I was not privy to his
6 Ms. Gotthelf said to you when she told you	6 history. Billy was a colleague on the desk.
7 that she had discussed placing Billy Gorta in	7 Q. Well based on your working with
8 the courthouse with Col Allan and Jesse	8 him on the metro desk how would you describe
9 Angelo?	9 his work performance as an editor on that
10 A. Not specifically, no.	10 desk?
11 Q. Did you play any role in Mr. Gorta	11 MR. LERNER: Objection.
12 being assigned to that position in the Queens	12 A. You know, how would I describe his
13 courthouse?	13 performance; I mean Billy was an intelligent
14 A. Again only tangentially, I wasn't	14 guy. I mean he certainly was a dedicated
15 even the deputy metro editor at the time.	15 journalist. He taught at Columbia.
16 Q. What role did you play?	16 Q. I am not asking you about his
17 A. I was asked my opinion.	17 background?
18 Q. What opinion did you give?	18 A. But it informed --
19 A. If it is good for the desk, then	19 Q. Focus on the question I am asking
20 do it.	20 you?
21 Q. Who asked you for your opinion?	21 A. Okay, Well I mean he was a very
22 A. Michelle Gotthelf.	22 knowledgeable journalist. Understood law and
23 Q. Did Billy Gorta ever have any	23 order because, you know, he dealt with shack
24 performance issues before he was put into the	24 issues, S-H-A-C-K, that is a jargon for the
25 Queens courthouse position?	25 police bureau, because he had been a police
Page 228	Page 229
1 Greenfield	1 Greenfield
2 captain. But I know that he -- that for the	2
3 most part from my perspective for the most	3
4 part he was a	4
5	5
6	6
7	7
8	8
9	9
10	10
11	11
12	12
13 REDACTED	13 REDACTED
14	14
15	15
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24	24
25	25

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1 Greenfield	1 Greenfield
2 Mr. Lippner has again said something, or said	2 Q. After Mr. Gorta was assigned to
3 something audible, shaking his head disrupting	3 the Queens Supreme Court did he ever need a
4 this deposition.	4 rewrite in connection with his stories that he
5 MR. LIPPNER: I did not say a	5 filed?
6 word, Mr. Thompson. I did shake my head,	6 A. It goes back to testimony I had
7 and you are grandstanding trying to	7 given earlier. I don't -- first off it is for
8 intimidate the witness.	8 the entire time that he was there, again it
9 MR. THOMPSON: I am not	9 covers a lengthy period of time. So I would
10 grandstanding. I am not trying to	10 imagine that there are times that he did. But
11 intimidate the witness. I want you to	11 he never required like a dedicated rewrite.
12 behave appropriately in this deposition.	12 If he needed rewrite it was in the context of
13 A. I would like to hear the question	13 what I mentioned earlier. Maybe he had
14 again please.	14 multiple stories and he needed to hand off
15 Q. Sure, read it back to him.	15 notes to someone to make deadlines. But he
16 (Record read.)	16 routinely filed his own copy.
17 A. Okay, I don't -- I wasn't there	17 Q. Did he need to improve his writing
18 for the entire time that Billy was there. I	18 at any point during his assignment to the
19 also wasn't there during the entire time on a	19 Queens courthouse?
20 given day that Billy was there. But yes, he	20 A. I don't know that.
21 could be negative at times, yes.	21 Q. I am showing you now what has been
22 Q. Did he also exhibit poor decision	22 marked as Greenfield Exhibit 8. For the
23 making when you worked with him on the metro	23 record it is Bates stamped NYP-FL 903 through
24 desk?	24 NYP-FL 906.
25 A. I can't speak to that.	25 (Greenfield Exhibit 8, document
Page 240	Page 241
1 Greenfield	1 Greenfield
2 Bates stamped NYP-FL 903 through NYP-FL	2 A. It looks like REDACTED and it
3 906, marked for identification, as of	3 looks like Michelle's.
4 this date.)	4 Q. Did you participate in any way in
5 Q. Please take a moment	5 this particular evaluation that was given to
6 Mr. Greenfield and look at that exhibit and	6 REDACTED
7 tell us if you recognize it. I want to	7 A. I did not.
8 specifically direct your attention to the page	8
9 Bates stamped NYP-FL 905.	9
10 A. After this line of questioning can	10
11 we take a break.	11 REDACTED
12 Q. Sure, we can take another break.	12
13 Mr. Greenfield, I want to	13
14 specifically direct your attention to -- first	14
15 of all let me back up. This is a performance	15
16 appraisal that was given to Billy Gorta for	16 Q. So do you know Mr. Greenfield if
17 2009; correct?	17 REDACTED needed rewrite for major trials?
18 A. Yes, fiscal year 2009.	18 A. I don't recall that, no.
19 Q. I want to direct your attention to	19 MR. THOMPSON: We can take a break
20 the last page of this exhibit which is NYP-FL	20 now. If you have to go to the restroom
21 906, do you see the signatures on the back of	21 or whatever you need to do.
22 that page?	22 THE VIDEOGRAPHER: The time is
23 A. I do.	23 4:37, we are going off the record.
24 Q. Do you recognize any of those	24 (Recess taken.)
25 signatures?	25 THE VIDEOGRAPHER: The time is

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1	Greenfield	Greenfield
2	you call her in connection with her job?	more so than others because of the nature of
3	A. The process is the answer, and I	my job, don't actually dial the phone that
4	was answering your question because it is not	often.
5	as simple as it sounds --	So I will call out can you get me
6	Q. Yes or no, do you call Ms.	so and so, can you get me Kim, can you get me
7	Livingston in connection with her job, yes or	Kevin, can you get me Rebecca, that sort of
8	no?	thing. So that is usually on a rare occasion
9	MR. LERNER: No, it can't be	there is a speed dial list that you will hit a
10	answered yes or no?	two digit number, but I don't usually use
11	A. Actually can't.	that.
12	Q. Do you ever call Ms. Livingston in	Q. Would you expect Ms. Livingston
13	connection with her job, yes or no?	who has worked at The Post for fifteen years
14	MR. LERNER: No, I know the	to have a telephone number at The Post?
15	subject matter here, and I can tell you	A. As I testified earlier I don't
16	Ken that this can't be answer yes or no.	know who has got numbers and who doesn't.
17	Q. Answer it any way your can	Q. I am not asking that. Can you
18	Mr. Greenfield?	answer my question please?
19	A. The switchboard operators, the	A. Then please ask the question
20	desk people as I mentioned earlier, sometimes	again.
21	it is desk assistants, sometimes it is people	MR. THOMPSON: Read it back.
22	who run that part, that department as I	(Record read.)
23	mentioned. Deadlines being what they are and	MR. LERNER: Objection.
24	as hectic as it can be in a news room we	A. I can't say because people use
25	actually as editors a lot of the time, and me	their phones for work, they get reimbursed, I
	Page 256	Page 257
1	Greenfield	Greenfield
2	don't know. It is not a value judgment that I	conversation. Kim at this point had been, you
3	can make.	know, she was working as a field reporter.
4	Q. Do you know if Amber Sutherland	Field reporters are not routinely in the news
5	has a telephone number at the New York Post?	room, and when you are supposed to be out on
6	A. I don't.	assignments and certainly in communication
7	Q. How often have you seen Ms.	with your desk as far as your whereabouts.
8	Livingston in the news room after she was	And I remembered that she came in the office
9	reassigned from the Queens courthouse?	and I was surprised to see her there because
10	A. Maybe a handful of times. It is	she had not let us know that she had changed
11	not typical to see field reporters in the	locations, and I was, well, I was what are you
12	newer.	doing here.
13	Q. When she worked in the Queens	Q. What location was she supposed to
14	courthouse she had a telephone number in the	be at at that time?
15	courthouse; correct?	A. I can't tell you specifically.
16	A. I don't know.	Field reporters --
17	Q. Did you ever see Ms. Livingston in	Q. I am asking you where was Ms.
18	the news room and ask her what are you doing	Livingston supposed to be on that day when you
19	here?	asked her what are you doing here?
20	A. I believe I may have.	A. I don't recall.
21	Q. Describe the time that you saw her	Q. What assignment was she supposed
22	in the news room and asked what was she doing	to be covering when you approached her in the
23	there?	news room and asked her what she was doing
24	A. I read this in the complaint, it	there?
25	jarred my memory of you know that, that	A. Two things there. A, I don't

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1	Greenfield	Greenfield
2	A. You know what, I -- that is my	approached her, whether she saw me, whether
3	recollection, but like I said the conversation	she was walking by my desk.
4	such as it was was very hazy.	
5	Q. What is your recollection based on	Q. Do you recall how you spoke to her
6	that Ms. Livingston was working that day?	that day?
7	A. When I saw it in the complaint I	MR. LERNER: You need to answer
8	tried to remember back to it. And that was --	verbally.
9	I seem to remember yes, seeing her once in the	THE WITNESS: Yes, I am sorry.
10	news room. But that is really it, it was not	A. Barely. What are you doing here.
11	a confrontation or anything.	Q. So is it your testimony
12	Q. Didn't you approach her in a	Mr. Greenfield that the only thing that you
13	hostile manner?	recall about that conversation is the question
14	MR. LERNER: Objection.	you posed to Ms. Livingston, what are you
15	A. Absolutely not.	doing here?
16	Q. Do you recall how you spoke to her	A. Yes. And I barely recall it.
17	that day?	Q. Now you said that you have seen
18	A. I --	her in the news room on other occasions since
19	Q. Do you recall how you spoke to her	she was reassigned from the Queens courthouse?
20	that day?	A. On occasion.
21	A. Excuse me. I have never	Q. Do you know what she was doing in
22	approached Kim in a hostile manner.	the news room on those other occasions?
23	Q. Do you recall how you approached	A. Well I mean I saw her when she
24	her that day Mr. Greenfield?	came in for reviews, evaluations, that sort of
25	A. I don't recall whether I	thing.
	Page 264	Page 265
1	Greenfield	Greenfield
2	and evaluations?	A. Not that I recall.
3	A. She came in fairly recently, I	Q. Have you ever raised your voice at
4	remember she was in the news room bringing	her?
5	notes on a story. But I, you know, I remember	A. Not that I recall.
6	seeing her around. I don't see her that	Q. Have you ever cursed at her?
7	often.	A. Not that I recall.
8	Q. How many times have you seen her	Q. Have you ever uttered profanity
9	in the news room separate and apart from	while talking to her?
10	having her come in for an evaluation?	A. Not that I recall.
11	A. I couldn't put a number on it.	Q. Have you ever hung up the phone on
12	Q. More than ten times?	Ms. Livingston?
13	A. I couldn't put a number on it.	A. Not that I recall.
14	Q. Isn't it fair to say that you	Q. Have you ever had any
15	rarely see Ms. Livingston in the news room?	disagreements with Ms. Livingston during her
16	A. That is fair.	employment at The Post?
17	Q. Because she is in the street;	MR. LERNER: Objection.
18	correct?	A. I would actually need more
19	A. No. Well she is a reporter who is	clarity.
20	assigned to work in the field.	Q. Sure, I will give you clarity.
21	Q. The field is the street?	Have you ever became upset at Ms.
22	A. It doesn't have to be a street, it	Livingston during her employment?
23	could be in a building.	A. Okay, I mean specific instances,
24	Q. Have you ever yelled at Ms.	yes, I probably became upset with every
25	Livingston?	reporter at one time or another.

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<p style="text-align: right;">Page 326</p> <p>1 Greenfield 2 voice during that call? 3 A. I could not say. 4 Q. Did Mr. Fenner utter profanity 5 toward you during that call? 6 A. I don't recall if he did or 7 didn't. 8 Q. What else did you say to Mr. 9 Fenner during that call? 10 A. All right, well, I asked him why 11 it was that he had not been in contact with 12 the desk. I asked him why -- whether he was 13 going to an event where Archbishop Dolan was 14 going to be. I asked him where he was. I 15 asked him whether he had planned on going to 16 this event. I asked him whether or not he had 17 been in touch with the photo desk. I asked 18 him a number of questions about where he was, 19 why he was where he was. You know, it was all 20 related to a couple of different issues. 21 And I raised with him the fact 22 that he couldn't be reached, and I pointed 23 that out to him that he couldn't be reached 24 for about 40 minutes which is unacceptable for 25 a reporter on the road. I raised the issue</p>	<p style="text-align: right;">Page 327</p> <p>1 Greenfield 2 that he was at a -- you know, I wanted to know 3 if he even knew about a press conference or an 4 event. That I had to learn from the photo 5 desk as opposed to him in the field. 6 I had to ask him why he had not 7 contacted me this morning. Why he didn't let 8 me know what he was up to. I wanted to 9 confirm whether he knew there was this event, 10 I had to direct him to go to the event. There 11 may have been other elements that I discussed, 12 but I remember those topics. 13 Q. What did Mr. Fenner say to you 14 during that call? 15 A. Well I don't remember specifically 16 what he said, but he said that he had not 17 planned on going to the event. He didn't -- I 18 remember that. I remember him pointing out 19 that he was going to be talking with Dolan at 20 some point during the day. But I had to 21 explain to him why it was important to go to 22 this event where Dolan was, and we discussed 23 that as well. 24 Q. Isn't it true that Mr. Fenner had 25 told you that he had planned on attending that</p>
<p style="text-align: right;">Page 328</p> <p>1 Greenfield 2 event? 3 A. No. 4 Q. Isn't it true that you yelled and 5 cursed at him and didn't even let him get a 6 word in? 7 A. Again I did not curse at him. 8 Q. You uttered profanity during that 9 call? 10 A. Yes. 11 Q. You uttered the word fuck when you 12 spoke to him; correct? 13 A. Yes, I believe I did. 14 Q. Do you normally utter the word 15 fuck when you speak to people Mr. Greenfield? 16 MR. LERNER: Objection. 17 A. Do I often? 18 Q. Yes. 19 A. Yes. I have to say it is not 20 uncommon. It is the way that people speak in 21 the news room. You hear it a lot. 22 Q. It is the way people speak in the 23 news room at the New York Post? 24 A. Well every news room that I worked 25 in. But yes, I mean it is not uncommon to</p>	<p style="text-align: right;">Page 329</p> <p>1 Greenfield 2 hear profanity in the workplace. 3 Q. Have you ever heard Austin Fenner 4 utter profanity? 5 A. You know -- 6 Q. Have you ever heard him utter 7 profanity, please answer that question? 8 A. Please let me finish. I don't 9 know. 10 Q. Have you ever heard Kim Livingston 11 utter profanity? 12 A. I don't know. 13 Q. And the only person who uttered 14 profanity during that phone call with you and 15 Austin Fenner was you; is that correct? 16 A. I didn't say that. 17 Q. I am asking. Did Austin Fenner 18 utter profanity during that phone call? 19 MR. LERNER: Objection. Asked and 20 answered. 21 A. I don't remember exactly whether 22 he did or didn't. 23 Q. As you sit here now do you recall 24 Austin Fenner uttering profanity during that 25 phone call on that day?</p>